

- I. Thank you, Mr. Chairman. And thanks to everyone for coming out to observe and participate in the redistricting ordered by the three-superior-court panel in Common Cause v. Lewis.
- II. Welcome to an unprecedented moment in the history of redistricting in North Carolina.
  - a. Never before has this legislature been ordered not to consider partisanship in drawing maps. What the Supreme Court of the United States determined just this summer to be a non-justiciable political issue, the panel in Common Cause v. Lewis found to be within the purview of the court. Suffice it to say, The rules of the road have now changed with respect to the 2017 districts.....and our goal and purpose today and if necessary until the court-ordered deadline September 18<sup>th</sup> , is to comply with every aspect of the Court's order.
  - b. As one reads the Court's 357 page opinion and considers efforts over the years to remove partisanship from the drawing of Senate and House districts, it's important to understand that the past practice of considering partisanship in drawing districts was not evil or the wrong thing to do under the rules as both

Democrats and Republicans understood and applied them...it was the norm. Both parties did it because there was a belief that the voters expected them leverage the majority to draw districts to protect and grow the ideas for which the majority was elected. Redistricting was considered a legislative function, separate and apart from the other branches of government. Partisan gerrymandering, which refers to redistricting that favors one political party, has a long tradition in the United States that precedes the 1789 election of the first US Congress.

- i. In North Carolina, from 1871 to 2011, the Democratic Party controlled the map drawing process in North Carolina. For 140 years Democrats drew partisan maps, each one of which would have failed the test applied to the GOP maps at issue in *Common Cause v. Lewis*.
- ii. So, lest you sense that this decision is a uniquely Republican rebuke, it is not. This decision forbids the use of partisanship in redrawing the districts it found need to be redrawn from the 2017 redistricting plan. I am quoting the opinion here: “Partisan considerations and elections results data shall not be used in the drawing of legislative districts in the Remedial Maps.”
  - 1. So this morning is the first time in history, a legislative redistricting committee has been

instructed by the judicial branch not to consider partisanship in drawing districts.

- c. What other criteria did the Court order that we incorporate into our redrawn or remedial districts?
  - i. Equal Population, + or – 5%
  - ii. Contiguity
  - iii. County groupings and traversals consistent with prior court precedent
  - iv. Compactness – we must make reasonable efforts to improve on the compactness of the 2017 districts
  - v. Fewer Split Precincts - We must make reasonable efforts to split fewer precincts than we did in 2017
  - vi. Municipal Boundaries - We may consider municipal boundaries in the Remedial Maps
  - vii. Incumbency – we may take “reasonable efforts” to avoid double-bunking incumbents in the same election district.
  - viii. Federal Law – “any remedial maps must comply with the VRA and other federal requirements concerning the racial composition of districts”.

III. So the question becomes, how do we do that? How can we in the span of less than two weeks re-draw the offending districts in a way acceptable to the Court.

- a. First, we need to agree to a base map, a non-partisan, Fair map, for each remedial district. I’ll refer to that as

our base map. By order of the Court, we may not start with the invalidated districts under the 2017 maps. So where do we start?

IV. Senator Daniel and I propose that our base map come from the Plaintiff's expert, Dr. Chen.

a. Dr. Chen, from the University of Michigan, was accepted by the Court in Common-Cause v. Lewis as "an expert in redistricting. Political geography, and geographic information systems." The Defendant's expert described Dr. Chen as one of the "foremost political science scholars on the question of political geography and how it can impact the partisan composition of a legislative body." (additional qualifications can be found on p. 38 of the order)

b. Why Dr. Chen's map?

i. Most importantly, Dr. Chens modeling runs comply with the court's order. Dr. Chen did not take into account partisan advantage. If we choose from any of Dr. Chen's modeling runs, we know our base map will be a compliant map...a fair map in the eyes of the Court because Chen's algorithm "harmonizes" all of the Court's criteria. And does not seek majority party advantage. It should also be a Fair Map in the eyes of the Plaintiffs in Common Cause v. Lewis, since Dr. Chen was the Plaintiff's expert witness. On page 40 of its order, the Court gave great weight to Dr.

Chen's findings and to the extent set forth in the order, adopted his conclusions.

- ii. Second, In Dr. Chen's algorithm, the criteria of compactness, avoiding splitting municipalities and avoiding splitting voting districts were equally weighted. The algorithm also accounted for, and complied with all applicable federal laws, thus considering and clearing all criteria required by the Court.
- iii. Dr. Chen ran the algorithm 1,000 times for each Senate county grouping, producing 1,000 unique statewide maps using traditional, and non-partisan districting principles. Dr. Chen's runs were used to compare against the 2017 voting districts to conclude which of the 2017 maps were unfair in the eyes of the Court...So, any one of the 1,000 Chen maps could be considered "FAIR MAPS" or "Non-Partisan Maps" by the Court.
  - 1. Dr. Chen considered incumbency for 2011 and 2017 incumbents but did not have 2018 addresses and therefore could not control for 2018 freshmen. So, once a base map is chosen, Amendments may be necessary to cure 2018 incumbents who may be double-bunked.

iv. Now the question becomes - even though any of the 1,000 maps is considered fair, are there steps we can take to improve the compliance level of any of Dr. Chen's fair maps? The court ordered us to take reasonable efforts to improve upon the following attributes of the 2017 maps:

1. Compactness
2. Avoiding Split VTDs
3. Avoiding Split Municipal boundaries,
  - a. To that end,
    - i. We propose the following process. Take all 1,000 maps, and have central staff score the highest performers across all three variables of 1, 2, And 3, above
    - ii.
      1. We can take Chen's scoring for 1-3 (He used both Polsby-Popper Reock metrics) and take the top 10, 20, 50, or 100 scores from all three categories (depending on the will of this committee), and if any overlap, we have the strongest most compliant maps, and we can draw randomly from the top

performers from that central staff analysis.

2. In other words, based on scores given by Dr. Chen, we'd have Central Staff ascertain the top performing of Dr. Chen's maps on three criteria important to the court and draw a Venn diagram. (note, these are the only 3 criteria that Chen scored, so the only three we can overlay with scores).
3. By scoring the subset of maps against the three criteria, we will have the best performing base map under the court's criteria.

- b. Then, central staff will randomly choose one map from among the best performers as our base map.
- c. From the base map, this committee will entertain proposed amendments. Most likely, proposals to amend any double bunked incumbents. There should be no need for other types of amendments other than incumbency,

because all of Dr. Chen's maps already include all other court-ordered criteria. They have already been recognized by the Court to be fair and non-partisan.

4. On the Amendments, – our goal is that all amendments be consensus. So if you believe you need to amend Dr. Chen's randomly drawn map, let's attempt to reach consensus on the need to amend. In order to assist with trying to reach consensus, we propose bipartisan supervision of the process, with Senators Blue and Hise (or Blue and Berger) discussing proposed amendments here in this room, before one is proposed to the Committee. Why vet with Blue and Hise (or Berger) before offering an amendment? Because by using a base map derived by Dr. Chen, we know we have a fair map, so Amendments outside of trying to cure double-bunking are discouraged. But if there are proposed amendments, let's maximize the likelihood of a consensus amendment by bipartisan leaders. All proposed amendments will be discussed and drafted here in the room by staff.



5. After Committee Amendments have been considered, we will open the floor for public comments. Additional amendments could be offered based on public comments and voted on.
6. The Chen map as amended would then be voted up or down by this committee.
7. That outlines what we believe to be the fairest, most expeditious and above all, Compliant method to satisfy all requirements of the Court order. If there is a better methodology, we are happy to entertain it.
8. Despite the fact that never before has a North Carolina Legislature been forbidden by a court to consider partisanship in drawing districts, As Senator Berger said immediately following the court's decision, we will respect the Court's decision, and want to put the divisive issue of redistricting behind us, and extract our state from this ongoing, seemingly never-ending litigation. Ideally, this Committee works together constructively, in bi-partisan fashion, and the divisiveness will stop here.

v. Plz remember, as Chairman Daniel said – under the court order,

1. there can be No Hallway Negotiations!
2. No use of Political or Racial Data. This prohibition applies to both members and central staff
3. Our work here must be public and transparent

vi. Thank you Mr. Chairman.

1. (At this time, we should open the floor for questions or comments)
2. Vote up or down the process recommendation?
3. Stand at ease?